

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA,**  
Plaintiff,

Vs.

**EDUARDO CRUZ RIVERA**  
Defendant

**Criminal Case No. 00-035 (JAF)**

**SECOND MOTION REQUESTING RECONSIDERATION OF REVOCATION  
OF SUPERVISED RELEASE**

**COMES NOW**, Mr. Eduardo Cruz Rivera, and through the undersigned attorney respectfully alleges and prays:

- 1- On May 24<sup>th</sup>, 2006, the undersigned filed a motion requesting reconsideration of the revocation of the supervised release of Mr. Cruz-Rivera. Inadvertently, we titled the motion, Motion Requesting Reconsideration of Conditions of Release. Nevertheless, we intended it to be a reconsideration of the revocation of supervised release.
- 2- Mr. Cruz-Rivera's revocation hearing was held on May 12, 2006. The Court revoked its supervised release term and imposed a 5 year sentence. Amended Judgment was filed on May 26, 2006. After careful evaluation and examination of said judgment, we submit that the Court erred in imposing a supervised release term of 5 years. According to Guideline 7B1.4, the revocation term for a grade A violation during the term of supervised release, with a criminal history category of I, as was the criminal history of Mr. Cruz-Rivera at the time of sentencing, is a term of 24-30 months.

- 3- As we expressed to the Court this case is one of an illegal intervention by Puerto Rico Police Officers. The Court of First Instance of Puerto Rico did not find probable cause, since it did not lend credibility to the Puerto Rico Police agent's version of the search and seizure that led to the arrest.
- 4- Mr. Cruz Rivera was on supervised release after having pled guilty to a class A felony in the case at bar. However, revocation of the release ensued when charges were filed in Federal Court for acts stemming from the illegal search and seizure made by the state agents.
- 5- The undersigned file a suppression motion in the case of **US v. Eduardo Cruz Rivera**, 06-027 (JAG), which caused the present revocation. It must be emphasized that the case has already been assigned to Honorable Magistrate Judge Camille Rive. Said suppression should be seen on the merits in the next two weeks.
- 6- We respectfully request that the Honorable Court reconsider its sentence of 5 years for the revocation of supervised release and hold the reconsideration in abeyance until the suppression motion is decided.

**WHEREFORE**, we respectfully request the Court reconsider and hold its decision in abeyance until the suppression motion is decided.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on this June 2, 2006.

**CERTIFICATE OF SERVICE:** I hereby certify that on June, 2, 2006, I electronically filed the foregoing with the Clerk of the Court, using the CM/ ECF system

which will send automatic notification of such filing to: AUSA Nathan J. Shulte, and all attorneys of record.

**S/ JORGE LUIS ARMENTEROS CHERVONI**

Bar # 214614

Cond. Galeria, Suite # 2, PMB 202

201 Ave. Arterial Hostos

San Juan, Puerto Rico, 00918-1405

Tel. 787-751-7634

Fax. 787-764-1086

Z:\Armenteros\FEDERAL CRIMINAL\Eduardo Cruz Rivera\caso Fuste revocation\second motion for reconsideration of revocation.doc